
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

☐ All Child Care Evaluator Manual Holders
☐ All Residential Care Evaluator Manual Holders
☒ All Evaluator Manual Holders

Transmittal No.**16APX-04****Date Issued**

January 2016

Subject:

Appendix A – 2015 Chaptered Legislation
Community Care Licensing Division, Children's Residential Facilities

Reason for Change: This document transmits summaries of, and implementation procedures for, legislation chaptered in 2015 affecting the Community Care Licensing Division, Children's Residential Facilities.

Filing Instructions:

REMOVE: Not applicable

INSERT: 16APX-04
2015 Chaptered Legislation, Children's Residential Facilities
Do not remove similar documents from the previous years.

Approved:

Original signed by Fernando Sandoval

1/06/2016

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Date

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2015 CHAPTERED LEGISLATION
Summaries and Implementation Plans

CHILDREN'S RESIDENTIAL FACILITIES

ACTION REQUIRED		
BILL INFORMATION	SUBJECT	PAGE
<u>Assembly Bill (AB) 1387</u> (Chu), Chapter 486, Statutes of 2015	Care facilities: civil penalties, deficiencies, and appeal procedures. Amended Sections 1548, 1568.0822, 1569.35, 1569.49, 1596.842, 1596.99, and 1597.58 of the Health and Safety Code, relating to care facilities	<u>1</u>
<u>Senate Bill (SB) 238</u> (Mitchell), Chapter 534, Statutes of 2015	Foster care: psychotropic medication. Amended Section 1522.41 and 1529.2 of the Health and Safety Code, and amended Sections 304.7, 317, 369.5, 739.5, 16003, 16206, and 16501.3 of, and added Section 16501.4 to, the Welfare and Institutions Code, relating to foster care.	<u>7</u>
<u>SB 484 (Beall)</u> , Chapter 540, Statutes of 2015	Juveniles (psychotropic medication). Amended Sections 1507.6 and 1536 of, and added Sections 1538.8 and 1538.9 to, the Health and Safety Code, and amended Section 11469 of the Welfare and Institutions Code, relating to juveniles.	<u>10</u>
<u>SB 731 (Leno)</u> , Chapter 805, Statutes of 2015	Foster children: housing: gender identity. Added Section 1502.8 to the Health and Safety Code, and amended Section 16001.9 of, and added Section 16006 to, the Welfare and Institutions Code, relating to foster care.	<u>14</u>
<u>SB 794 (Committee on Human Services)</u> , Chapter 425, Statutes of 2015	Child welfare services (reasonable and prudent parent standard). Added Section 1522.44 to the Health and Safety Code, and amended Sections 309, 362.04, 362.05, 362.1, 366, 366.21, 366.22, 366.25, 366.26, 366.3, 366.31, 706.5, 706.6, 727.2, 727.3, 10618.6, 11386, 16002, 16003, 16118, 16131, 16131.5, 16501, and 16501.1 of, and added Sections 16501.35, 16501.45, and 16519.51 to, the Welfare and Institutions Code, relating to child welfare.	<u>16</u>

Unless otherwise noted, all new legislation becomes effective on January 1, 2016. When conducting licensing visits, Licensing Program Analysts (LPAs) should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

Assembly Bill 1387 (Chu), Chapter 486, Statutes of 2015

Affects: Community Care Facilities (CCFs)
Children's Residential Facilities and Certified Family Homes
Residential Care Facilities for the Elderly (RCFEs)
Residential Care Facilities for the Chronically Ill (RCF-CIs)
Child Care Centers (CCCs) and Family Child Care Homes (FCCs)

Subject: Care Facilities: Civil Penalties, Deficiencies and Appeal Procedures

Summary: [Assembly Bill \(AB\) 1387](#) amends sections [1548](#), [1568.0822](#), [1569.35](#), [1569.49](#), [1596.842](#), [1596.99](#) and [1597.58](#) of the Health and Safety Code to stipulate the procedures by which a departmental decision may be appealed by a licensee.

Effective January 1, 2016, amendments to statute include:

For violations that result in death, serious injury (for child care facilities), or serious bodily injury (for all other facilities), or that constitute physical abuse:

- Health and Safety Code sections [1548\(f\)](#), [1568.0822\(f\)](#), [1569.49\(f\)](#), [1596.99\(f\)](#), [1597.58\(f\)](#) are amended to require that any civil penalty for a violation resulting in death or serious bodily injury/serious injury, or that constitutes physical abuse of a client, must first be approved by the Program Administrator before being assessed. (Prior to [AB 1387](#) these assessments required approval by the Director of the Community Care Licensing Division.)
- Health and Safety Code sections [1548\(j\)](#), [1568.0822\(j\)](#), [1569.49\(j\)](#), [1596.99\(k\)](#), [1597.58\(k\)](#) amend the appeal process for civil penalties assessed for death, serious bodily injury/serious injury or physical abuse. Any appeal of penalties for these types of violations will now go to the Deputy Director. (Prior to [AB 1387](#) appeals first went to the Regional Manager and then the Program Administrator). A timeline for this appeal process is now stipulated in statute.
- Subsequent to the Deputy Director's decision, the law allows the licensee to further appeal the penalty to an Administrative Law Judge, following procedures set out in the Government Code.

For All Other Civil Penalties or Deficiencies:

- Health and Safety Code sections [1548\(k\)](#), [1568.0822\(k\)](#), [1569.49\(k\)](#), [1596.99\(l\)](#), and [1597.58\(l\)](#) are amended to require that the appeal of any other civil penalty or deficiency will now go to the Regional Manager. (Prior to [AB 1387](#) appeals first went

to the Licensing Program Manager). A timeline for this appeal process is now stipulated in statute.

- Subsequent to the Regional Manager's decision, the law allows the licensee to further appeal the penalty or deficiency to the Program Administrator. A timeline for this appeal process is also stipulated in statute. The Program Administrator's decision concludes the licensee's administrative appeal rights.

All Other Amendments:

- Health and Safety Code sections [1548\(i\)](#), [1568.0822\(i\)](#), [1569.49\(i\)](#), [1596.99\(j\)](#), [1597.58\(j\)](#) are amended to codify current regulations regarding the practice for writing notifications of deficiencies.
- Health and Safety Code sections [1548\(o\)](#), [1568.0822\(n\)](#), [1569.49\(n\)](#), [1596.99\(n\)](#), and [1597.58\(n\)](#) are added to allow the Department to implement and administer the changes made by this legislation through all-county letters or similar written instructions until regulations are adopted.

Child Care Only Amendments:

- Health and Safety Code section [1596.842](#) is amended to reference the appeal process in sections [1596.99](#) and [1597.58](#) of the Health and Safety Code to conform to the statutory appeal process.
- Health and Safety Code sections [1596.99\(i\)](#) and [1597.58\(i\)](#) are amended to remove the requirement that money deposited into the Child Health and Safety Fund be used to provide placement assistance to families with children who attend a family day care home or day care center whose license is revoked or temporarily suspended.

RCFE Only Amendments:

- Health and Safety Code section [1569.35\(c\)\(2\)](#) is amended to add that the Department will give priority, whenever possible, to complaints filed by local long-term care ombudsman or the State Long-Term Care Ombudsman and notify the Office of the State Long-Term Care Ombudsman that an investigation has been initiated.
- Health and Safety Code section [1569.35\(c\)\(3\)](#) adds the requirement asserting that the Department shall make a good faith effort to contact and interview the complainant prior to conducting an onsite investigation and inform them of the Department's proposed course of action.
- Health and Safety Code section [1569.35\(d\)](#) is added to mandate the Department to notify the complainant, in writing, of its decision within 10 business days of completing the investigation.

IMPLEMENTATION:

This bill becomes effective January 1, 2016.

There are two appeal processes mentioned in the bill: one for penalties assessed for a violation determined to have resulted in death or serious bodily injury/serious injury, or that constitutes physical abuse; and another appeal process for all other penalties and deficiencies. This law restructured both appeal processes by reducing the number of levels of appeal of each type and providing a timeline for each appeal. In addition, it requires that any civil penalty assessed for a violation that results in death or serious bodily injury, or that constitutes physical abuse of a client, first be approved by the Program Administrator. This bill did not address the unlicensed appeal process, which remains unchanged.

For violations that result in death or serious bodily injury/serious injury, or that constitute physical abuse:

- 1st Level: Deputy Director, Community Care Licensing Division
- 2nd Level: Administrative Law Judge

For All Other Civil Penalties or Deficiencies:

- 1st Level: Regional Manager
- 2nd Level: Program Administrator

For appeals reviewed by the Deputy Director, Regional Manager or Program Administrator, the procedure is as follows:

- A licensee may file an appeal, in writing, within 15 business days from the date of receiving the penalty assessment. All available supporting documentation must be submitted with the request for review.
- Within 30 business days of the request for review, the licensee may submit any additional supporting documentation that was unavailable at the time of the initial request.
- If the Department requires additional information from the licensee in order to make its determination, that information shall be requested within 30 business days of receiving the initial request. The licensee shall provide this additional information within 30 business days of receiving the request.
- Upon review of the appeal and additional information, the Department may amend any portion of the action taken, or may dismiss the violation entirely. The licensee shall be notified in writing of the Department's decision within 60 business days of the date when all necessary information has been provided to the Department by the licensee.

- Upon exhausting this review, the licensee may further appeal the decision to the next level of review, as outlined above. For appeals of any other civil penalty or deficiency besides death, serious bodily injury or physical abuse, the Program Administrator's decision is considered final, and concludes the licensee's administrative appeal rights.

Interim Procedure for the Civil Penalty Review Form

LIC 178 Penalty Review:

1. Open the Print Only Forms database and the applicable civil penalty form.
2. Complete the selected LIC form as required.
3. Print two copies for signature by the Reviewer.
4. Provide one copy to Licensee and add the other copy to facility file at Regional Office.

For appeals reviewed by an Administrative Law Judge:

Appeals will be conducted in accordance with Chapter 5 (commencing with Section [11500](#)) of Part 1 of Division 3 of Title 2 of the Government Code.

Interim Civil Penalty Assessment Procedure:

The following LIC forms will be temporarily disabled from being connected to a specific facility file in FAS effective January 1, 2016:

- LIC 421 CIVIL PENALTY ASSESSMENT
- LIC 421B CIVIL PENALTY ASSESSMENT – IMMEDIATE
- LIC 421C CIVIL PENALTY ASSESSMENT – IMMEDIATE \$150
- LIC 9058 APPLICANT/LICENSEE RIGHTS

These LIC forms will be temporarily unavailable in the FAS drop-down menu for "Additional Forms".

While FAS is being programmed to incorporate the new and amended forms, all of the civil penalty forms will be available only in the FAS "CCLD Print Only Forms" menu. In contrast to the forms available in the "Additional Forms" drop-down menu, the forms below cannot be electronically attached to a facility report.

Amended Civil Penalty Forms

- [LIC 421 CIVIL PENALTY ASSESSMENT](#); appeals process revised
- [LIC 421B CIVIL PENALTY ASSESSMENT – BACKGROUND CHECK / CHILD CARE](#); title changed and appeals process revised
- [LIC 421C CIVIL PENALTY ASSESSMENT – IMMEDIATE \\$150](#); appeals process revised. In addition, facility-specific civil penalty information for sickness, injury, and death have been amended
- [LIC 9058 APPLICANT/LICENSEE RIGHTS](#); appeals process revised

Note: The [LIC 421A CIVIL PENALTY ASSESSMENT \(Unlicensed Facility\)](#) has not been revised, as the statutory amendments do not impact this form.

New Civil Penalty Forms

- [LIC 421D CIVIL PENALTY ASSESSMENT – DEATH](#); this form specifies the new civil penalty amount for a violation which resulted in the death of a resident/client for each facility type
- [LIC 421E CIVIL PENALTY ASSESSMENT – SERIOUS BODILY INJURY/PHYSICAL ABUSE](#); this form specifies the new civil penalty amount for a violation that constitutes physical abuse or resulted in serious bodily injury/serious injury

Interim instructions for amended civil penalty “Print Only Forms” in FAS

The FAS Print Only LIC forms are fillable PDF forms. Starting January 1, 2016, the LPA shall follow the steps below in using these forms:

1. On the LIC [809](#) or LIC [9099](#), indicate the civil penalty being assessed, including the authority for the citation (regulation or statute) and amount assessed
2. Write the following on the LIC [809](#):
“The licensee was provided a copy of their appeal rights (LIC [9058](#) 12/15) and their signature on this form acknowledges receipt of these rights.”
3. Open the Print Only Forms database
 - A. Open the applicable civil penalty form
 - i. Complete the selected LIC form as required
 - ii. Print two copies for signatures by LPA and Licensee
 - iii. Provide one copy to Licensee and add the other copy to facility file at the Regional Office
 - B. In Print Only Forms database, open the LIC [9058](#) (12/15)
 - i. Print one copy
 - ii. Provide the copy to the Licensee

Interim instructions for LIC [421D – Death](#), and for LIC [421E – Serious Bodily Injury/Physical Abuse](#)

A civil penalty for a violation suspected of resulting in death, serious bodily injury or physical abuse will not be assessed at the time of the site inspection because the final determination on these types of violations can only be made by the Program Administrator. Instead, it should be noted on the licensing report that a civil penalty determination is pending. The underlying violation that resulted in the death, serious bodily injury or physical abuse of a client shall be cited following normal procedures (see above).

If approved by the Program Administrator, a signed LIC [421D](#) or LIC [421E](#) form will be provided to the Regional Office. The Licensing Program Analyst shall conduct a

subsequent visit to the facility to issue the civil penalty, or if the Regional Office determines it is appropriate, a non-compliance conference may be held. At the time of assessment, the Licensing Program Analyst should inform the licensee of his or her appeal rights specific to this type of civil penalty. A copy of both the licensing report and the civil penalty notice statement should be forwarded to the Civil Penalty Coordinator for invoicing and collection.

The LPA should consult with his or her Licensing Program Manager for specific questions on the new and amended LIC civil penalty forms.

Updated information will be provided once the civil penalty forms have been reprogrammed into FAS and the LPA is able to access them from within the facility file in FAS.

Contact with Complainants (RCFE only)

This law requires the Department to make a good faith effort to contact and interview the complainant, and to notify the complainant in writing of its decision regarding the RCFE complaint within 10 business days of completing the investigation. This contact must be documented on page 2 of the LIC [802 "Complaint Report."](#) This contact usually takes the form of a phone call. If there is an address but no available phone number for the complainant, the LPA may mail the complainant the second page of the LIC [856 "Complaint Response Letter,"](#) specifically, the "Report of Findings" section, which describes the result of the LPA's investigation.

In addition, the Department must give priority to a complaint filed by a local long-term care ombudsman or the State Long-Term Care Ombudsman that alleges denial of a statutory right of access to an RCFE. Further, it requires the Department to notify the Office of the State Long-Term Care Ombudsman that such an investigation has been initiated.

Under a [Memorandum of Understanding](#) with the Office of the Long-Term Care Ombudsman, each Regional Office is responsible for notifying the local Ombudsman Program of substantiated complaints against Residential Care Facilities for the Elderly and Adult Residential Facilities. The Regional Offices must also provide the local Ombudsman, in a timely manner, with legible copies of all LIC [809s "Facility Evaluation Report"](#) and LIC [9099s "Complaint Investigation Report"](#) for all Residential Care Facilities for the Elderly and Adult Residential Facilities in the Regional Office's local planning and service area. ([EM Section 3-2650](#))

Any civil penalties or deficiencies assessed prior to January 1, 2016, must be appealed according to the previously established procedure.

ACTION REQUIRED

Senate Bill 238 (Mitchell), Chapter 534, Statutes of 2015

Effective January 1, 2016

(The amendments to H&SC 1522.41 and 1529.2 contained in SB 238 have been superseded by Assembly Bill 403 (Stone), Chapter 773, Statutes of 2015.)

Affects: Group Homes including Community Treatment Facilities and Enhanced Behavioral Support Homes, Foster Family Agencies, Certified Family Homes, Foster Family Homes, Small Family Homes, Transitional Housing Placement Providers and Short-Term Residential Treatment Centers

Subject: Foster care: psychotropic medication.

Summary: [Senate Bill \(SB\) 238](#) amends multiple sections of the Health and Safety Code and the Welfare and Institutions Code, related to psychotropic medication use in foster care. This bill also requires the California Department of Social Services, in consultation with specified entities and stakeholders, to develop and provide a monthly report to county child welfare agencies with specific information regarding each child who is prescribed one or more psychotropic medication authorizations. This bill expands training requirements for administrator certification, foster parents, public health nurses, appointed child counsel, mandated child reporters, social workers, and judges.

More specifically, SB 238 amends [Health and Safety Code Section 1522.41](#) in the following ways (superseded by Section 18.5 of AB 403 (2015)):

- Effective January 1, 2016, group home administrator training now contains the requirements established in Section [16501.4](#) of the Welfare and Institutions Code to include authorization, uses, risks, benefits, assistance with self-administration, oversight, and monitoring of psychotropic medications, and trauma, and substance use disorder and mental health treatments, including how to access those treatments.
- A Short-Term Residential Treatment Center (STRTC) administrator training program is established, training topics include understanding the requirements and best practices regarding psychotropic medications, including court authorizations, uses, benefits, side effects, interactions, assistance with self-administration, misuse, documentation, storage, and metabolic monitoring of children prescribed psychotropic medications.

Additionally, SB 238 amends Health and Safety Code Section 1529.2 and Section [16501.4](#) of the Welfare and Institutions Code in the following ways (superseded by Sections 23.5 and 24.5 in AB 403 (2015)):

- Effective until January 1, 2017*, creates new pre-placement and annual training requirements for licensed and certified foster parents. For pre-placements, requirements are established in Section [1529.2](#) of Health and Safety code to include health issues in foster care, including, but not limited to, the authorization, uses, risks, benefits, assistance with self-administration, oversight, and monitoring of psychotropic or other medications, and trauma, mental health, and substance use disorder treatments, for children in foster care under the jurisdiction of the juvenile court, including how to access those treatments. For post-placements, requirements are established in Section [16501.4](#) of the Welfare and Institutions Code to include the authorization, uses, risks, benefits, assistance with self-administration, oversight, and monitoring of psychotropic medications, trauma, and substance use disorder and mental health treatments, including how to access those treatments.
- Effective January 1, 2017 and continuing until January 1, 2019*, Health and Safety Code Section [1529.2](#) has been redrafted to expand the annual training topics for foster parents to have the necessary knowledge, skills and abilities to support the safety, permanency and well-being of children in foster care. This section also adds additional training for foster parents when necessary to meet the particular needs of a child in care. These topics include training related to commercially sexually exploited children; lesbian, gay, bisexual, and transgender children; psychotropic medications; the Indian Child Welfare Act; nonminor dependents; and children with special health care needs.

*Note: This section deletes the pre-placement training requirements for foster parents, since, on and after January 1, 2017, all counties and Foster Family Agencies (FFA) must instead approve new foster parents as Resource Families. (The Resource Family training requirements are set forth in Welfare and Institutions Code Section [16519.5](#), as amended by [AB 403 \(2015\)](#).)

IMPLEMENTATION:

Licensing staff shall inform providers of these new requirements during the course of facility inspections and other contact with providers. As of January 1, 2016, Licensing Program Analysts (LPAs) shall be required to check for the training requirements. LPAs shall ensure that group home and STRTC administrators, foster parents and certified parents of a FFA have the necessary training as specified above. SB 238 does not provide a specific number of hours necessary to complete the required training.

Until regulations are developed, LPAs shall cite violations as follows:

- A Group Home or STRTC pursuant to Health and Safety Code Section [1522.41](#)(c)(1) or (c)(2) when an administrator is not in compliance.
- From January 1, 2016 until December 31, 2016:
 - A Foster Family Home or Small Family Home pursuant to Health and Safety Code Section [1529.2](#)(b)(3) (pre-placement training) or [1529.2](#)(b)(4) (annual training) when a foster parent is not in compliance.
 - A FFA pursuant to Health and Safety Code Section 1506(b)(1) and [1529.2](#)(b)(3) (pre-placement training) or [1529.2](#)(b)(4) (annual training) when a certified parent is not in compliance.
- From January 1, 2017 until December 31, 2018, a Foster Family Home, Small Family Home, or FFA pursuant to Health and Safety Code Section 1529.2(b) (annual training) when a foster parent is not in compliance.

Regulations will be developed and applicable revisions to the Evaluator Manual will follow.

ACTION REQUIRED

Senate Bill 484 (Beall), Chapter 540, Statutes of 2015

Effective January 1, 2016

Affects: Group Homes including Community Treatment Facilities and Enhanced Behavioral Support Homes, Foster Family Agencies, Certified Family Homes, Foster Family Homes, Small Family Homes, Transitional Housing Placement Providers and Short-Term Residential Treatment Centers

Subject: Juveniles (psychotropic medications)

Summary: [Senate Bill \(SB\) 484](#) creates new data collection and distribution requirements related to the use of psychotropic medications by children in group homes. It also requires the California Department of Social Services (CDSS) to develop measures to identify group homes with levels of psychotropic medication usage warranting further review and address psychotropic medication concerns with identified facilities as appropriate. The bill also adds recordkeeping requirements on facilities serving foster children who are prescribed psychotropic medications.

The additions and amendments that SB 484 makes to the Health and Safety and Welfare and Institutions Codes impact licensed facilities as follows:

All facilities serving foster children

- Psychotropic medication shall be used only in accordance with the written directions of the prescribing physician and as authorized by the juvenile court pursuant to Welfare and Institutions Code Sections 369.5 or 739.5. ([HSC §1507.6\(b\)\(1\)](#))
- Facilities are required to maintain specified information in each child's record including a copy of any court order authorizing psychotropic medications, as well as a separate log for each medication prescribed for each child. ([HSC §1507.6\(b\)\(2\)](#))

Group Homes

- CDSS is required to compile, at least annually, information concerning each group home in order to review and evaluate the use of psychotropic medication in these facilities. The information compiled will be based on information received from the California Department of Health Care Services (DHCS), and include child welfare psychotropic medication measures developed by CDSS and specified Healthcare Effectiveness Data and Information Set

(HEDIS) measures related to psychotropic medication. ([HSC §1538.8](#))

- CDSS is required to consult with DHCS in order to establish a methodology by July 1, 2016, for identifying group homes that have levels of psychotropic drug utilization warranting additional review and to periodically review and revise the methodology as necessary. ([HSC §1538.9\(a\)\(1\)](#))
- CDSS is required to inspect group homes that are identified by the methodology as having levels of drug utilization warranting additional review at least annually using specified criteria. Allows the inspection to include confidential interviews with former residents of the group home and prescribing physicians. ([HSC §1538.9\(a\)\(2-4\)](#))
- CDSS is allowed, following an inspection conducted pursuant to HSC §1538.9 and as it deems appropriate, to share relevant information and observations with county placing agencies, social workers, probation officers, the court, dependency counsel, or the Medical Board of California. ([HSC §1538.9\(b\)\(1\)](#))
- CDSS is allowed, following an inspection conducted pursuant to HSC §1538.9 and as it deems appropriate, to share relevant information and observations with the facility and require it to submit a plan – within 30 days – to address any identified risks within the control of the facility related to psychotropic medication. CDSS shall approve the plan and verify that it has been implemented to determine whether those risks have been remedied.* ([HSC §1538.9\(b\)\(2\)](#))
- SB 484 clarifies that the inspection authorized in HSC §1538.9, resulting from the methodology concerning psychotropic medication utilization, is not intended to replace or alter other requirements for responding to complaints and making inspections or visits to group homes, including those set forth in Health and Safety Code Sections 1534 and 1538. ([HSC §1538.9\(d\)](#))
- CDSS is allowed to implement the provisions of HSC §1538.9 through all-county letters or similar instructions until regulations are filed. Requires emergency regulations to be adopted on or before January 1, 2017 and final regulations to be adopted on or before January 1, 2018. ([HSC §1538.9\(c\)](#))

*The plan authorized in Health and Safety Code 1538.9(b)(2) is not a plan of correction as detailed in CCR Title 22 §§80052 and 80053.

- CDSS is required to post on its website a statewide summary of the information gathered pursuant to HSC §1538.8 and §1538.9. The summary must include only anonymous and aggregate information that does not violate the confidentiality of a child's identity and records. ([HSC §1536\(f\)](#))
- CDSS is required to consult with specified stakeholders to develop additional performance standards and outcome measures that require group homes to implement alternative programs and services, including behavioral management programs, emergency intervention plans, and conflict resolution processes. ([WIC §11469\(g\)](#))

Runaway and Homeless Youth Shelters

- The provisions of this legislation do not apply to runaway and homeless youth shelters. ([HSC §§1507.6\(b\)\(3\)](#), [1538.8\(c\)](#) and [1538.9\(e\)](#))

Short Term Residential Treatment Centers

- Short-term residential treatment centers have been added to the list of community care facilities for which CDSS must annually publish information related to licensing complaints and law enforcement contacts. ([HSC §1536\(a\)\(2\)](#))

IMPLEMENTATION

Beginning January 1, 2016:

During the course of an inspection of a group home, community treatment facility, enhanced behavioral support home, foster family home, foster family agency, certified family home, small family home or transitional housing placement provider, if a Licensing Program Analyst finds that psychotropic medications are being used in a manner that conflicts with either the written directions of a prescribing physician or with the authorization of the juvenile court pursuant to [WIC §369.5](#) or [§739.5](#), the LPA shall cite the facility for a violation of [HSC §1507.6\(b\)\(1\)](#).

An LPA shall also ensure that a child's records in these facilities contain a copy of any court order authorizing psychotropic medication for the child, and that a separate log is kept for each psychotropic medication prescribed for the child, showing:

1. The name of the medication
2. The date of the prescription;
3. The quantity of medication and number of refills initially prescribed;
4. When applicable, any additional refills prescribed;

5. The required dosage and directions for use as specified in writing by the prescribing physician, including any changes directed by the physician; and
6. The date and time of each dose taken by the child.

Incomplete or inaccurate psychotropic medication records shall be cited for a violation of [HSC §1507.6\(b\)\(2\)](#).

At a date to be determined:

After the development and subsequent application of a methodology that determines which group homes have psychotropic medication usage that warrants further review, identified facilities will be inspected at least once a year. This inspection will include, at a minimum, a review of the group home's plan of operation, child-to-staff ratio, staff qualifications and training, implementation of children's needs and services plans, confidential interviews of residents and the availability of psychosocial and other alternative treatments to the use of psychotropic medications, pursuant to [HSC §1538.9\(a\)](#). The inspection may also include any other factors that CDSS determines contribute to levels of psychotropic medication use warranting further review.

Field operations will be informed when regulations, information releases or other instructions implementing this inspection process are finalized.

ACTION REQUIRED

Senate Bill 731 (Leno), Chapter 805, Statutes of 2015

Effective January 1, 2016

Affects: Group Homes including Community Treatment Facilities and Enhanced Behavioral Support Homes, Foster Family Agencies, Certified Family Homes, Foster Family Homes, Small Family Homes, Transitional Housing Placement Programs and Short-Term Residential Treatment Centers

Subject: Foster children: housing: gender identity.

Summary: [Senate Bill \(SB\) 731](#) amends Section 16001.9 (“the Foster Youth Bill of Rights”) of and adds Section 16006 to the Welfare and Institutions Code, and adds Section 1502.8 to the Health and Safety Code. SB 731 adds a personal right and adds a requirement that children and nonminor dependents in out-of-home care are to be placed according to their gender identity. The bill also requires the department to adopt regulations consistent with the new personal right.

Specifically, SB 731 did the following:

- Requires the Department of Social Services to adopt regulations consistent with the new personal right of minors and nonminor dependents in foster care to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare records. ([HSC §1502.8](#))
- Affords the following right to all minors and nonminors in foster care: To be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare records. ([WIC §16001.9 \(a\)\(24\)](#))
- Requires that all children and nonminor dependents in out-of-home care be placed according to their gender identity, regardless of the gender or sex listed in their court or child welfare records. ([WIC §16006](#))

IMPLEMENTATION:

The department will adopt licensing regulations consistent with the personal right of minors and nonminors in foster care to be placed in out-of-home care according to their gender identity as specified in [Welfare and Institutions Code Section 16001.9\(a\)\(24\)](#).

Until regulations are promulgated, if a licensee or certified family home violates the new personal right, as specified above, a Licensing Program Analyst shall cite the licensee or foster family agency as follows:

- **GH/SFH:** [22 CCR § 80000\(b\)](#) and [Welfare & Institutions Code Section 16001.9\(a\)\(24\)](#)
- **CTF:** [22 CCR § 84172\(b\)](#)
- **THPP:** [22 CCR § 86072 \(d\)\(23\)](#)
- **FFH/CFH:** [22 CCR § 89372\(a\)](#)

Additionally, an LPA should cite the following AB 12 Interim Licensing Standards for the violation of a nonminor dependent's right:

- **SFH:** [§ 83172\(b\)](#)
- **GH:** [§ 84472\(b\)](#)
- **THPP:** [§ 86172\(b\)](#)
- **FFH/CFH:** [§ 893172\(b\)](#)

Note: The placement of a child in a residential facility falls outside the purview of the Community Care Licensing Division. Until regulations are promulgated, if a child is placed in a licensed, certified or approved facility according to their gender identity, he or she may share a bedroom with a child of the opposite biological sex if an exception is granted for those specific children to share a bedroom. Exceptions will only be granted after a consideration of the health, safety and compatibility of both children in the bedroom.

ACTION REQUIRED

Senate Bill 794 (Committee on Human Services), Chapter 425, Statutes of 2015

Effective January 1, 2016

Affects: Group Homes including Community Treatment Facilities and Enhanced Behavioral Support Homes, Foster Family Agencies, Certified Family Homes, Foster Family Homes, Small Family Homes, Transitional Housing Placement Providers and Short-Term Residential Treatment Centers

Subject: Child welfare services (reasonable and prudent parent standard)

Summary: [Senate Bill \(SB\) 794](#), in addition to addressing commercially sexually exploited children and other issues in foster care placement, adds new training and staffing requirements pertaining to the reasonable and prudent parent standard (RPPS). The bill was necessary to insure state compliance with federal law which recently amended state requirements for foster care and child welfare services funding.

Specifically, SB 794 adds to the Health and Safety Code and amends the Welfare and Institutions Code as follows:

- Requires each licensed community care facility that provides care and supervision to children and operates with staff to designate at least one onsite staff member to apply the RPPS to decisions involving children's participation in age or developmentally appropriate activities. ([HSC §1522.44\(b\)](#))
- Requires licensed and certified foster parents and the facility staff members described above, who have been designated as responsible for applying the RPPS in their facility, to receive training related to the RPPS, and specifies what this training should include. ([HSC §1522.44\(c\)](#))
- Specifies that the provisions added to the Health and Safety Code by this legislation do not apply to runaway and homeless youth shelters. ([HSC §1522.44\(d\)](#))
- Expands the definition of "reasonable and prudent parent standard" and states that training for caregivers shall include knowledge and skills relating to the RPPS for the participation of the child in age or developmentally appropriate activities, consistent with the revised standard in state and federal law. ([WIC §362.05](#))

SB 794 does not provide a specific number of hours necessary to complete the required RPPS training.

IMPLEMENTATION

Until regulations are developed, LPAs shall cite for a violation of [Health and Safety Code Section 1522.44\(b\)](#) if a facility has not designated a staff member to apply the RPPS to decisions involving children's participation in age or developmentally appropriate activities.